

**PREPARED OPENING STATEMENT
OF
CHAIRMAN RICHARD J. DURBIN**
Senate Appropriations Subcommittee on
Financial Services and General Government
Hearing on the FY 2010
Funding Requests and Budget Justifications of the
Securities and Exchange Commission
and the
Commodity Futures Trading Commission

Room 138 Dirksen Senate Office Building
Tuesday, June 2, 2009

The CFTC and the SEC enjoy unique histories, hold specialized and independent responsibilities, and take different approaches to markets that serve differing purposes. Yet the CFTC and the SEC both occupy pivotal positions at the forefront of stimulating and sustaining economic growth and prosperity in our country.

Market users, financial investors, and the U.S. economy rely upon vigilant oversight by these two agencies in today's evolving --and often volatile -- global marketplace.

We are enduring an extraordinary set of circumstances in America today. We are beginning to slowly emerge from one of the greatest economic crises since the Great Depression. After years of sweat and struggle, countless families have lost their hard-earned savings, seeing their dreams daunted, deferred, and even denied.

When a man named Bernard Madoff can, over the span of 10 or 20 years, lure investors into what has turned out to be a Ponzi scheme, causing many of them to lose millions of dollars, and his wrongdoing goes unnoticed by major regulatory agencies, it is clear more has to be done.

When some of the major ratings agencies that gauge whether a company is doing well basically ignore their responsibility and fail to make accurate reports, everyone loses as a result of it.

The unprecedented price volatility of our markets for physical commodities, such as energy and grains, has hurt our economy. Now—perhaps more than ever -- we need our markets to function transparently and insulated from manipulation and unfettered excessive speculation.

The Obama Administration recently announced a comprehensive plan to significantly regulate credit default swaps and other over-the-counter derivatives. Exempting these investments from regulation has proven to be a costly mistake -- contributing to the \$180 billion taxpayer bailout of AIG, the collapse of Lehman Brothers, and the demise of Bear Stearns.

This proposal will require far more transparency and responsibility from derivatives traders that have long operated in the shadows.

Things are still very fragile. Much remains to be done to stabilize, repair, and sustain our financial system on which we all depend. It will take time to redeem the lost faith of the American people in the government institutions they expected would protect them. But I believe we are moving forward with resolve toward a brighter economic course.

I appreciate the fact that Chairmen Schapiro and Gensler have each accepted President Obama's call to be part of the economic leadership team to help craft a more reliable regulatory framework and guide us to a better future.

Both Chairmen bring vast experience to their new leadership posts in this Administration -- and have undoubtedly identified, even in their brief tenures, ways to improve the way we approach regulating in the securities and futures markets.

As the Subcommittee prepares to make difficult funding decisions for the next fiscal year, I look forward to hearing about the particular challenges their respective agencies face in today's tumultuous economic environment. I welcome their input on how we can best help to address those needs.

Before hearing from our panelists, I'd like briefly outline the missions of these agencies and their budget proposals:

Turning first to the SEC, its three-prong mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC is the investor's advocate.

The SEC is responsible for overseeing more than 12,000 publicly traded companies, over 11,300 investment, nearly 8,000 mutual funds with \$9 trillion in assets, fund complexes, 5,500 broker dealers with over 174,000 branches, 10 credit rating agencies, and close to \$44 trillion worth of trading conducted each year on America's stock and option exchanges.

The strength of the American economy and our financial markets depends on investors' confidence in the financial disclosures and statements released by publicly traded companies. Investors expect the SEC to be the vigilant "cop on the beat." Regrettably, in many respects, we let them down. I have faith in Chairman Schapiro's leadership and tenacity to turn things around.

This subcommittee wants to make certain that the SEC has the necessary resources to effectively fulfill its obligatory singular mission: protecting shareholders.

The SEC's budget request for FY 2010 totals \$1.026 billion, an increase of \$8.8 million, or 8.8% over the agency's FY09 enacted level of \$943 million. This proposed FY 2010 budget would fund 3,692 FTE, just 40 more than the current year funding permits.

Crucial to the SEC's effectiveness is its enforcement authority. Each year the SEC brings hundreds of civil enforcement actions for violations of the securities laws, such as insider trading, accounting fraud, and providing false or misleading information.

Serious, thoughtful questions have been raised about whether the proposed enforcement budget is adequate to keep pace with the growing demands.

Second, the CFTC: The CFTC is charged with protecting the public and market users from manipulation, fraud, and abusive practices. It is also responsible for promoting open, competitive, and financially sound markets for commodity futures.

The CFTC helps ensure that the futures markets are equipped to better perform their vital function in the U.S. economy -- providing a mechanism for price discovery and a means of offsetting price risks.

The CFTC's oversight and enforcement mission becomes tangible when you consider that futures prices impact what we pay for the basic necessities of our daily lives: our food, clothing, shelter, fuel in our vehicles, and heat in our homes.

This year -- 2009 -- marks the 35th year since the establishment of the Commodity Futures Trading Commission. At the time of its inception in 1974, CFTC's 500 employees were tasked with the mission of ensuring fair practices and honest dealings on the commodity exchanges of America's then-\$500 billion futures industry.

Today it is a \$22 trillion industry that looks vastly different. Yes, the traditional agricultural products like wheat, corn, soybeans, and the proverbial pork bellies are still

part of the picture. But the landscape has been remarkably altered and diversified with novel and complex commodities...everything from grains to gold, currencies to carbon credits.

In the past decade, trading volume has increased more than ten-fold -- reaching well over 3.4 billion trades in 2008, and actively traded contracts have quintupled -- from 286 in 1998 to 1,521 in 2008. CFTC oversees \$5 trillion of trades -- daily!

Adding to this challenge is a significantly transformed globalized, electronic, and round-the-clock marketplace. Moreover, the emergence of derivatives and hedge funds have altered the regulatory environment.

Layered on this are new authorities added through the 2008 farm bill, coupled with escalating public angst about record energy and agricultural commodity price hikes and fluctuations, and a growing influx of financial funds into the futures markets.

Further complicating the picture are transactions that the CFTC currently has no power to presently regulate -- the vast "shadow" world of over-the-counter derivatives -- like credit default swaps.

Surprisingly, what hasn't changed is the number of staff. Despite the phenomenal surge in volume and activity, CFTC staffing levels have simply not kept pace. In fact, staffing levels have dropped by over 20 percent. CFTC's workforce -- like its predecessor over three decades ago in the agency's fledgling years -- presently numbers only 500.

For FY 2010, the President's budget request funding for the CFTC of \$160.6 million. This represents an increase of \$14.6 million -- a 10% hike -- above the FY09 enacted level of \$146 million.

Of the \$14.6 million in increased funding for next year, \$7.4 million is slated for increased compensation and benefit costs for a staff of 572; \$0.2 million will be devoted to increased operating costs for information technology modernization, lease of office space, and other services; and \$7.8 million will support the salary and expenses of 38 additional full-time staff.

Last August, I had the opportunity to visit the CFTC's Chicago Regional Office. I met with a group of dedicated staff committed to doing outstanding work under challenging circumstances. I learned first-hand just how thin the staffing is.

The CFTC's Chicago market surveillance staff consisted of 10 economists who conduct daily oversight of each actively traded market and 6 trading specialists who process the daily reports detailing traders' actual positions in each market.

These economists are responsible for surveillance of over 1,250 different commodity futures and option contracts, of which 325 are active, involving 13 different commodity types. The commodities underlying the futures contracts the staff must monitor are highly diverse -- including grains, livestock, lumber, currencies, Treasury instruments, equity indexes, single stock future, and dairy. More recently, weather derivatives, real estate indexes, and environmental products such as carbon credits and emission allowances became part of their portfolio.

A single staff economist must cover many markets. For example, one staffer is responsible for 10 grains, one for 90 currencies, and one for the surveillance of over 500 hundred single stock futures. Aside from supervision by the chief of the Chicago surveillance section and Washington, DC supervisory personnel, there is limited redundancy built into the system. As a consequence, each one of those economists is critical.

The six trading specialists maintain an extensive daily data-gathering and verification system by collecting reports from exchanges, futures industry firms, and traders. As our energy debate in Washington throughout the last Congress demonstrated, this data collection is very important to the Commission's oversight and to market transparency.

As I pledged since assuming the Chairmanship of this committee, I am serious about addressing the resource deficiency facing this agency.

I will appreciate hearing from both Chairmen their honest appraisals about the resources they will require to achieve their missions, keep pace with change, and becomes as sophisticated as, if not more so, than the entities they monitor -- while responsibly managing taxpayer dollars.